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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

11 NOE ORTEGA PEREZ, )  
12 Petitioner, ) 2:10-cv-01824-KJD-PAL  
13 vs. )  
14 WARDEN DWIGHT NEVEN, et al., ) ORDER DISMISSING PI  
15 Respondents. )  
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18 The petitioner has presented the Court with a petition for writ of habeas corpus pursuant  
19 to 28 U.S.C. § 2254 and has paid the filing fee.

20 It appears to the Court from the face of the petition that it is fatally flawed. First, the  
21 petitioner was filed more than nine years after his judgment of conviction became final. Petition, Item  
22 2; *see* 28 U.S.C. § 2244(d). Second, it appears that the single claim raised in the petition has not been  
23 previously presented to the Nevada Supreme Court for review making the claim unexhausted. Petition,  
24 p. 4; *see* 28 U.S.C. § 2254(b)(1). Third, that the petition does not identify a federal claim for relief.  
25 Petition, p. 3; *see* 28 U.S.C. § 2254(a).

26 Petitioner is advised that there exists a one-year statute of limitations for presenting his

1 federal petition and that he must first present his grounds for relief to a state court before a federal court  
2 may review the merits of the issues he raises. To exhaust a claim, petitioner must have "fairly presented"  
3 that specific claim to the Supreme Court of Nevada. *See Picard v. Conner*, 404 U.S. 270,275-76  
4 (1971); *Schwartzmiller v. Gardner*, 752 F.2d 1341, 1344 (9th Cir. 1984). Accordingly the petition shall  
5 be dismissed without prejudice.

6 **IT IS THEREFORE ORDERED** that the petition is **DISMISSED** without prejudice.

7 The Clerk shall enter judgment accordingly.

8 DATED: October 27, 2010



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UNITED STATES DISTRICT JUDGE

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